

Panaji, 26th April, 2018 (Vaisakha 6, 1940)

SERIES II No. 4

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 3 dated 19-04-2018 namely, Extraordinary dated 20-04-2018 from pages 69 to 72 regarding Orders and Notification from Department of Elections & Order from Department of Home.

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

Order

No. 8/31/2018-19/D.Agr/13

Ex-post facto approval of the Government is hereby accorded to extend the deputation period of Shri Madhav B. Kelkar, Dy. Director of Agriculture against the post of Managing Director, Goa State Horticulture Corporation Ltd., Tonca, Caranzalem for another year with effect from 01-04-2018 to 31-03-2019.

The deputation of Shri Madhav B. Kelkar, shall be governed by standard terms and conditions of deputation as contained in the O.M. No. 13/4/74-PER dated 12-02-1999 and amended from time to time.

By order and in the name of the Governor of Goa.

Nelson X. Figueiredo, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 18th April, 2018.

Department of Civil Aviation

Directorate of Civil Aviation

Order

No. DOCA/EST/Appt.Dy.Col/18/16-17/56

Read: Order No. DOCA/EST/Appt.Dy.Col/18/16-17/509 dated 1st December, 2016.

Addendum No. DOCA/EST/Appt.Dy.Col/18/16-17/925 dated 3rd January, 2017.

Order No. DOCA/EST/Appt.Dy.Col/18/16-17/133 dated 16th May, 2017.

Order No. DOCA/EST/Appt.Dy.Col/18/16-17/399 dated 29th August, 2017.

The contractual appointment of Shri N. D. Agarwal, Retired Collector South Goa as Advisor in the Directorate of Civil Aviation is hereby extended for a period of six months from 1st April, 2018 to 30th September, 2018. He shall be paid lump sum amount of Rs. 50,000 per month in the addition to pension.

The expenditure shall be debited from the following Budget Head:

Demand No. 84 (Civil Aviation)

3053 — Civil Aviation;

02 — Airport;

800 — Other Expenditure;

01 — Establishment of Airport Cell (Plan);

50 — Other Charges.

By order and in the name of the Governor of Goa.

Dr. S. Shanbhogue, Director & ex officio Joint Secretary (Civil Aviation).

Porvorim, 19th April, 2018.

Goa Human Rights Commission

Proceeding No. 240/2016

Inquiry Report

The Complainant has approached this Commission alleging that a high tension electric transformer is being erected/installed at the Quitula, Aldona, Bardez-Goa, opposite to her garage situated in Survey No. 96/42. She has stated that the place where the transformer is being erected/installed is narrow, and it is at a distance of about 02.80 metres from the centre of the road and approximately 09.50 metres diagonally from the entrance of her garage.

The Complainant has further stated that the right to safety as well as right to free movement etc. is restricted as the road is narrow.

2. Taking cognizance of the complaint, this Commission issued notices to 1) Assistant Engineer, Electricity Department, S/D-III (R), Mapusa-Goa and 2) The Chief Electrical Engineer, Vidyut Bhavan, Panaji-Goa. The Respondent No. 1 has filed a reply dated 10-10-2016. The Respondent No. 2 has adopted the reply filed by the Respondent No. 1. The Complainant has filed a Rejoinder dated 12-12-2016 to the reply of the Respondent No. 1. The Respondent No. 1 has filed Sur-Rejoinder dated 10-02-2017 to the Rejoinder of the Complainant. The Complainant has filed Sur-Sur-Rejoinder dated 21-03-2017 to the Sur-Rejoinder of the Respondent No. 1.

3. The Respondents have denied that the right to safety and right to free movement etc. is restricted to her, her family and passerby, due to erection of new Transformer Centre. It is stated that the transformer is being erected on the other side of the road and away from Complainant's house, garage and property and does not in any way cause any inconvenience to her and her property or to any passerby. It is further stated that necessary vertical and horizontal line clearance as per the I.E. Rules are being maintained while erecting the said Transformer Centre to ensure safety to the public. It is further stated that the transformer site is technically ideal, at the load centre and is proposed below the existing LT network. It is also stated the transformer when commissioned will feed better power to the consumers and also will boost the voltage to the locality.

4. We have heard both the parties. We have also gone through the entire records of this case. The records indicate the tar road near the transformer is narrow i.e. 3.25 metres in width. The transformer has been installed by the side of the road at the distance of 1.25 metres from the edge of the tar road. At the place where transformer has been installed, there is a bye-lane/public road from where there is vehicular traffic. The road being very narrow and the distance of the transformer hardly 1.25 metres from the edge of the tar road, the possibility of the vehicles dashing the transformer while overtaking the vehicles or due to traffic congestion at the site, cannot be ruled out. Fortunately, no untoward incident had taken place so far. But then, it does not mean that the place where the transformer is installed is safe and will remain safe forever. Thus, it is apparent that there is danger to the lives of public member on account of the said electric transformer.

5. The Learned Advocate Shri Neelesh Manerkar for the Complainant contended that the said electric transformer is posing danger to the life of the Complainant and also to the lives of public members. We find substantial merit in this contention of the Learned Adv. Shri Neelesh Manerkar. He further contended that the electric transformer has been installed without following the procedure for shifting of electric poles and laying of utilities. Shri Manerkar has produced a copy of the Circular bearing No. 20-51-PCE-PWD-EO/2013-2014/110 of Government of Goa, Office of the Principal Chief Engineer, PWD, Altinho, Panaji-Goa dated 06-08-2013. As per the above Circular, amongst other things, it is necessary that a proper application for erection of electric poles with alignment and other drawings should be submitted to the PWD and a joint inspection should be carried out in a week's time. Admittedly, the Electricity Department has not submitted any application for installing the electricity transformer and no joint inspection has been carried out as required under the said circular. Thus, it can be seen that the said electric transformer has been installed by the Electricity, Department without following the procedure as laid down by the Public Works Department. It was incumbent upon the Electricity Department to comply with the conditions of the above circular before installing the said electric transformer. As stated above, there is a danger to the life of the Complainant and the lives public members on account of the said electric transformer. We therefore feel that it is necessary in the interest of justice to shift the said electric transformer to any other safer place to ensure safety to the public members including the Complainant.

6. In the facts and circumstances of this case, we make the following recommendation:-

The Chief Electrical Engineer, Vidyut Bhavan, Panaji-Goa, shall explore the possibility of shifting the Transformer Centre, to any other safer place to ensure safety to the public members.

Date: 20-11-2017.

Place: Panaji-Goa.

Sd/-

(A. D. Salkar),
Acting Chairperson,
Goa Human Rights
Commission.

Sd/-

(J. A. Keny),
Member,
Goa Human Rights
Commission.

Office of the Chief Electrical Engineer
Electricity Department
Government of Goa
Vidyut Bhavan, 3rd Floor
Panaji-Goa

No. 149/3/CEE/Tech/Com/1938 Dated 23-03-2018

To,

The Under Secretary,
Goa Human Rights Commission,
Old Directorate of Education Building,
18th June Road,
Panaji-Goa.

Sub:- Notice.

Ref.:- Proceeding No. 240/2016/717 dated
15-09-2016 of Mrs. Philomena E D'Cruz,
r/o H. No. 146, Quitula, Aldona, Bardez-Goa.

Sir,

With reference to the above referred subject matter, it is reported by the concerned Assistant Engineer, Sub-Div. III (R), Mapusa that the Transformer in question has been shifted and the apprehension of danger expressed by the complainant has been resolved.

Yours faithfully,

Sd/-

Neelakanta N. Reddy,
Chief Electrical Engineer.

Copy to:-

The Executive Engineer, Elect. VI, Mapusa-Goa ...
for information.

Department of Home

Home—General Division

Corrigendum

No. 1/76/2012-HD(G)/GHRC/1203

Read: Order No. 1/76/2012-HD(G)/GHRC/3546
dated 29-11-2017.

In the Government order dated 29-11-2017 read at preamble, the seventh line of Para 1 viz "and in terms of O.M. No. 10/1/77-PER dated 24-06-2015." stands deleted.

The rest of the contents in the aforesaid order shall remain unchanged.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home-II).
Porvorim, 13th April, 2018.

Department of Industries

Corrigendum

No. 11/13/2013-IND/133

Read: Notification No. 11/12/2013-IND dated
21-12-2015.

In the Notification referred in preamble above, the word Director, Directorate of Industries, Trade & Commerce, Panaji indicated at Sr. No. (vi) shall be substituted to read as Deputy Director, Industries, Trade & Commerce, Panaji, Member.

By order and in the name of the Governor of Goa.

Shivanee S. Borkar, Under Secretary (Industries)/
/Link.

Porvorim, 20th April, 2018.

Department of Labour

Order

No. 28/4/2018-LAB/260

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Team Lease Services Limited, 115, 4th Floor, Raaj Chamber, R. K. Paramhans Marg, Andheri (East), Mumbai, and it's workman, Shri Dilip R. Naik, site checker, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act") the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

SCHEDULE

“(1) Whether the non-employment of Shri Dilip R. Naik, site checker, from 21-07-2017, amounts to unauthorized absence or refusal of employment?

(2) In either case, what relief the workman is entitled to?”.

By order and in the name of the Governor of Goa.

Shivanee Borkar, Under Secretary (Labour) (Link).

Porvorim, 16th April, 2018.

Order

No. 28/34/2017-LAB/269

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Wallace Pharmaceuticals Private Limited, Panaji, and it's Workmen/Medical Representatives, represented by the Federation of Medical and Sales Representatives' Association of India, Mumbai, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the “said dispute”);

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the “said Act”), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa, constituted under Section 7A of the said Act.

SCHEDULE

“(1) Whether the instant dispute pertaining to the strike/agitation held by the medical and sales promotion employees employed by M/s. Wallace Pharmaceuticals Private Limited, Goa, can be construed as an industrial dispute under the provisions of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?

(2) If the answer to issue No. (1) above is in the affirmative, then, whether the management of M/s. Wallace Pharmaceuticals Private Limited, Panaji, proves that the strike resorted by the Workmen/ /Medical Representatives, on 09-06-2017 and 27-07-2017, is illegal and unjustified?

(3) If the answer to the issue No. (2) above is in the negative, then, what relief the Workmen/Medical Representatives are entitled to?”.

By order and in the name of the Governor of Goa.

Shivanee S. Borkar, Under Secretary (Labour) (Link).

Porvorim, 17th April, 2018.

Notification

No. 28/3/2018-LAB/261

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 08-03-2018 in reference No. IT/53/94 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shivanee Borkar, Under Secretary (Labour) (Link).

Porvorim, 16th April, 2018.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/53/94

Shri Pedro Vincent Dias,
H. No. 21, Non Mon,
Vasco-da-Gama.
V/s

... Workman/Party I

M/s. Goa Shipyard Ltd.,
Vaddem,
Vasco-da-Gama.

... Employer/Party II

Workman/Party I represented by Ld. Adv. Shri E. O. Mendes.

Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 8th day of the month of March of the year 2018)

By order dated 22-04-1994, bearing No. 28/12/94-LAB/5, the Government of Goa in exercise of the powers conferred by Section 10 (1) (d) of the

Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to the Tribunal for adjudication.

“Whether the action of the Management of M/s. Goa Shipyard Ltd., Vaddem, Vasco-da-Gama, Goa in dismissing Shri Pedro Vincent Dias with effect from 5-10-93 is legal and justified? If not to what relief the workman is entitled?”

2. Upon receipt of the reference, IT/53/94 was registered and registered A/D notices were issued to both the parties. Upon appearance, Party I filed a Claim statement at Exhibit 4 and Party II filed a Written statement at Exhibit 5.

3. In short, the case of Party I is that the Party I workman was a Trade Union leader since 1988 till 1991 and was President of Shipyard Employees Union during the said period. The Party I was strongly against the rampant corruption among the management of the Goa Shipyard Ltd. and made open accusation against them. The Union had fixed the election on 18-6-1991 of the new managing committee, however, the elections were disrupted by one Cyril Fernandes and others who went on terrorizing and assaulting the workmen of Goa Shipyard Ltd. which culminated into vicious assault on the Party I workman himself and his other colleagues were badly injured. The management instead of taking action on various complaints against said Cyril took opportunity of death of one of the supporters of the workman and suspended the Party I and others. The charges levelled against the workman are false and the findings of Enquiry Officer are vitiated, perverse and in violation of principles of natural justice.

4. In the written statement, the Party II has denied the case set up by Party I and has claimed that the entire reference is not maintainable and bad-in-law. The Enquiry Officer after completing the enquiry submitted his findings in which he came to the conclusion that the charges levelled against him are proved. The company was fully justified in dismissing the Party I workman as he started taking the law into their hands with the help of his supporters and created a terror in the minds of the workmen inside the premises which resulted into the death of one of the workers. The Party I workman is not entitled for any reliefs.

5. In the rejoinder at Exh. 7, the Party I denied the case put forth by Party II in written statement.

6. Based on the above averments of the respective parties, the following issues were framed.

- 1) Whether the Party I proves that the domestic enquiry held against him is not proper, fair and impartial?
- 2) Whether the charges of misconduct levelled against the workman are proved to the satisfaction of the Tribunal by acceptable evidence?
- 3) Whether Party I proves that the termination of his services by Party II is by way of victimization?
- 4) Whether Party I proves that the termination of his services by the Party II w.e.f. 5-10-93 is illegal and unjustified?
- 5) Whether Party I is entitled to any relief?
- 6) What Award?

7. It is a matter of record that my predecessor vide order dated 1-8-1996 at Exh. 13 answered preliminary issue No. 1 and held that domestic enquiry initiated against the workman, Shri Pedro Vincent Dias is fair, proper and impartial. It is also a matter of record that my predecessor vide order dated 12-8-2009 at Exh. 35 held that the findings of Enquiry Officer are based on evidence on record and therefore, issue No. 2 was answered in the affirmative.

8. It is also a matter of record that the Party I has carried out the amendment in support of issue No. 3 and the said amendment application was granted vide order dated 25-9-2001 at Exh. 25. As per the said amendment, it was alleged that the then Chairman and Managing Director of Party II had played an active role to ensure the removal of the workman and went to the extent of advising that a false complaint be lodged implicating the workman in the tragic incident of the death of one of the workmen. The whole proceeding of the enquiry were a premeditated attempt by Party I to ensure the removal of the Party I and installed Shri Cyril Fernandes to power in the Union and that the inquiry was nothing but a farce. The Party I workman was implicated falsely at the instigation of Shri Cyril Fernandes and he was arraigned as accused No. 3 in Sessions Case No. 27/92 for offences punishable under Section 143, 147, 148, 504, 506 & 302 read with 149 I.P.C. The Party I workman came to be acquitted by the Hon'ble Sessions Judge vide his Judgment dated 3-2-2001 and in the said judgment, the Hon'ble Sessions Judge has accepted the possibility of Party I workman being falsely implicated so as to further the prospects of Shri Cyril Fernandes to become the President of the Union with the active support of the management.

9. The Party I thereafter examined himself and produced on record a copy of SEU letter dated 15-4-1991 to the General Manager, Goa Shipyard Ltd. at Exh. 52, a copy of SEU Newsletter dated 18-4-1991 addressed to the workmen at Exh. 53, a copy of SEU letter dated 7-5-1991 addressed to the Manager, Goa Shipyard Ltd. at Exh. 54, a copy of GSL Letter dated 9-5-1991 addressed to SEU, a copy of GSL Letter dated 13-5-1991 to SEU at Exh. 56, a copy of GSL Letter dated 16-5-1991 to SEU at Exh. 57, a copy of SEU letter dated 25-5-1991 to the Manager, GSL at Exh. 58, a copy of SEU Letter dated 28-5-1991 to the Chairman, GSL at Exh. 59, a copy of SEU Letter dated 29-5-1991 to the Chairman and M.D., GSL at Exh. 60, a copy of SEU Newsletter dated 29-5-1991 by Secretary, GSU at Exh. 61, a copy of the complaint dated 30-5-1991 to Manager, GSE at Exh. 62, a copy of GSL Letter dated 30-5-1991 to President, SEU at Exh. 63, a copy of Letter dated 31-5-1991 to the President, SEU at Exh. 65, a copy of SEU Newsletter dated 8-6-1991 by the President SEU at Exh. 66, a copy of SEU letter dated 15-6-1991 to Manager, GSL at Exh. 66, a copy of Report of Returning Officer dated 18-6-1991 at Exh. 67, a copy of SEU Newsletter dated 18-6-1991 by President, SEU at Exh. 68, a copy of SEU letter dated 19-6-1991 to Dy. S. P. Vasco-da-Gama at Exh. 69, a copy of Notice dated 20-6-1991 of the Returning Officer along with schedule of voting at Exh. 70.

10. The Party I also produced on record a copy of SEU Letter dated 20-6-1991 to Chairman and M. D., GSL at Exh. 71, a copy of News report on Navhind Times dated 21-6-1991 about polls at Exh. 72, a copy of News report on Gomantak Times/Weekender dated 23-6-1991 at Exh. 73, a copy of F.I.R. No. 160/91 at Vasco P. S. at Exh. 74, a copy of the deposition of Mr. E. O. Mendes along with the relevant documents at Exh. 75 colly, a copy of Letter dated 22-6-1991 to the President, GSU at Exh. 76, a copy of Newspaper Report on Navhind Times dated 23-6-1991 at Exh. 77, a copy of GSL Letter dated 24-6-1991 addressed to SEU at Exh. 78, a copy of SEU Letter dated 24-6-1991 to the Registrar of Trade Union and Chairman and M.D. of GSL at Exh. 79, a copy of SEU Notice dated 26-6-1991 at Exh. 80, a copy of SEU Memo dated 26-6-1991 addressed to I.G.P. at Exh. 81, a copy of SEU Memo dated 26-6-1991 addressed to C.M., Government of Goa at Exh. 82, a copy of Newspaper report on Navhind Times dated 27-6-1991 at Exh. 83, a copy of Newspaper Report on Gomantak Times dated 27-6-1991 at Exh. 84, a copy of Newspaper Report on Navhind Times dated 28-6-1991 at Exh. 85, a copy of Press Release dated 28-6-1991

signed by Cyril Fernandes as President SEU at Exh. 86, a copy of newspaper report on Gomantak Times dated 29-6-1991 at Exh. 87, a copy of SEU Notice dated 1-7-1991 at Exh. 88, a copy of Press Release dated 2-7-1991 at Exh. 89, a copy of SEU Notice dated 2-7-1991 at Exh. 90.

11. The Party I also produced on record a copy of Newspaper report on Navhind Times dated 3-7-1991 at Exh. 91, a copy of SEU Letter dated 5-7-1991 to the Manager, GSL at Exh. 92, a copy of Press Release dated 6-7-1991 by Cyril Fernandes at Exh. 93, a copy of Newspaper report on Navhind Times dated 7-7-1991 at Exh. 94, a copy of Newspaper report on Gomantak/Weekender dated 7-7-1991 at Exh. 95, a copy of Newspaper report on Herald dated 7-7-1991 at Exh. 96, a copy of Note by Major B. Thomas dated 8-7-1991 at Exh. 97, a copy of Newspaper report on Navhind Times dated 9-7-1991 at Exh. 98, a copy of Newspaper report on Gomantak Times dated 9-7-1991 at Exh. 99, a copy of Show Cause Notice published on Navhind Times dated 9-7-1991 at Exh. 100, a copy of Press Release by SEU dated 9-7-1991 signed by Cyril Fernandes at Exh. 101, a copy of Letter dated 10-7-1991 by Labour Commissioner at Exh. 102, a copy of Newspaper report on Navhind Times dated 12-7-1991 at Exh. 103, a copy of Newspaper report on Gomantak Times dated 12-7-1991 at Exh. 104, a copy of complaint dated 12-7-1991 to GSL at Exh. 105, a copy of letter dated 12-7-1991 to Cyril Fernandes at Exh. 106, a copy of Newspaper report on Gomantak Times dated 13-7-1991 at Exh. 107, a copy of Newspaper report on Navhind Times dated 15-7-1991 at Exh. 108, a copy of Press Release dated 16-7-1991 by President Cyril Fernandes at Exh. 109, a copy of Press Release dated 17-7-1991 by Cyril Fernandes at Exh. 110.

12. The Party I also produced on record a copy of Newspaper report on Navhind Times dated 17-7-1991 at Exh. 111, a copy of Newspaper report on Herald dated 17-7-1991 at Exh. 112, a copy of handwritten letter dated 18-7-1991 to General Manager, GSL at Exh. 113, a copy of complaint dated 16-7-1991 to the Chairman and M.D., GSL at Exh. 114, a copy of Newspaper report on Navhind Times dated 20-7-1991 at Exh. 115, a copy of Newspaper report on Gomantak Times dated 20-7-1991 at Exh. 116, a copy of Letter dated 25-7-1991 by Labour Commissioner at Exh. 117, a copy of Press Release dated 31-7-1991 Cyril Fernandes at Exh. 118, a copy of SEU Letter dated 2-8-1991 to the Labour Commissioner at Exh. 119, a copy of Letter dated 5-8-1991 by Cyril Fernandes for Press Conference at Exh. 120, a copy of SEU Notice dated 21-8-1991 at Exh. 121, a copy of Press

Release dated 10-8-1991 by Cyril Fernandes at Exh. 122, a copy of Protest Letter dated 28-8-1991 at Exh. 123, a copy of Protest letter dated 28-8-1991 at Exh. 124, a copy of Letter dated 25-2-1993 by Major B. Thomas at Exh. 125, a copy of News report on Navhind Times and Herald both dated 14-8-1992 at Exh. 126 colly, a copy of Constitution and Rules of SEU at Exh. 127, a copy of letter dated 2-5-1988 by Registrar of Trade Union along with Certificate of registration of Trade Union at Exh. 128 colly, a copy of letter dated 30-8-1991 by SDPO, Vasco-da-Gama at Exh. 129, a copy of order dated 6-3-1996 at Exh. 130, a copy of written statement in Spl. C. S. No. 59/95 at Exh. 131, a copy of Charge sheet dated 2-4-1992 at Exh. 132. Party I also examined Shri Santosh Tukaram Naik, Shri Menino Estibreiro, Inacio C. Dias and Major Babu Thomas as its witnesses. On the other hand, Party II examined Shri Samant Kishor Manohar as its witness.

13. Heard arguments. Notes of Written arguments came to be placed on record by Party I as well as Party II.

14. I have gone through the records of the case and have duly considered the arguments advanced. I am reproducing herewith the issues along with their findings and reasons thereof.

- Issue No. 3 ... In the Negative.
- Issue No. 4 ... In the Negative.
- Issue No. 5 ... As per final order.
- Issue No. 6 ... As per final order.

REASONS

15. *Issue Nos. 3 and 4:* Ld. Adv. Shri E. O. Mendes for Party I has submitted that the Party I was falsely implicated in the case at the instigation of one Cyril Fernandes on the allegation of murder of co-worker in which he was acquitted by Hon'ble Sessions Judge vide Judgment dated 3-2-2001 in which it was observed that the possibility of Party I being falsely implicated to further the prospects of Shri Cyril Fernandes to become the President of the Union with active support of the management cannot be ruled out. The Chairman and the Managing Director of Party II had infact played an active role in removal of the Party I workman and to install Shri Cyril Fernandes to power in the Union. He therefore submitted that the management levelled trumped up charges against Party I workman and engaged in practice of victimization in dismissing the Party I workman without giving opportunity of leading evidence as evident from the documents produced on record by the Party I from Exh. 52 to 132.

16. Per contra, Ld. Adv. Shri M. S. Bhandodkar for Party II has submitted that the Party I was suspended and thereafter a fair and proper enquiry was held against him and after enquiry officer came to the conclusion that the charges are proved against him, the company issued a show cause notice and after receiving the written explanation, the competent authority thought it fit to dismiss him from service w.e.f. 5-10-1993. The dismissal of Party I was fully justified for grave and serious misconduct proved against him. The Party II never victimized the Party I workman. The company has filed a Writ Petition before the Hon'ble High Court of Bombay at Goa as there was Trade Union rivalry between the groups of Party I and Cyril Fernandes in which the Hon'ble High Court has held that the group of Cyril Fernandes was legal and he was installed as President of the Union. He further submitted that the charges against the Party I workman have been proved by the Tribunal while answering issue No. 1 & 2 and therefore, once the charges are proved against the workman, the allegation of victimization does not survive. In support of his contention, he relied upon the case of Messrs Bharat Iron Works vs Bhagubhai Balubhai Patel and Others (1976) 1 SCC 518.

17. It is well settled in the case of Messrs Bharat Iron Works, supra that once the Tribunal holds that the charges are established, no question of victimization arises. The Apex Court has observed that ordinarily a person is victimized, if he is made a victim or a scapegoat and is subjected to persecution, prosecution or punishment for no real fault or guilt of his own, in the manner, as it were, of a sacrificial victim. Therefore, if actual fault or guilt meriting the punishment is established, such action will be rid of the taint of victimization. Victimization is a serious charge by an employee against an employer, and, therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. The charge must not be vague or indefinite being as it is an amalgam of facts as well as inferences and attitudes. The onus of establishing a plea of victimization will be upon the person pleading it. Since a charge of victimization is a serious matter reflecting, to a degree, upon the subjective attitude of the employer evidenced by acts and conducts, these have to be established by safe and sure evidence. Mere allegations, vague suggestions and insinuations are not enough. All particulars of the charge brought out, if believed, must be weighed by the tribunal and a conclusion should be reached on a totality of the evidence produced. Again,

victimization must be directly connected with the activities of the concerned employee inevitably leading to a penal action without the necessary proof of a valid charge against him. Once, in the opinion of the Tribunal a gross misconduct is established, as required, on legal evidence either in a fairly conducted domestic enquiry or before the tribunal on merits, the plea of victimization will not carry the case of the employee any further. A proved misconduct is antithesis of victimization as understood in industrial relations.

18. Discernibly, the Party I workman has admitted on page 4 of the cross examination that the enquiry was conducted against him by the enquiry officer in which he found that the charges leveled against him have been proved and that in the present reference, the Tribunal also found that the enquiry was conducted in a proper and fair manner and that the charges levelled against him are found to be proved on the basis of evidence on record. Needless to mention, my predecessor while answering issue No. 1 has held that the domestic enquiry held against the workman, Shri Pedro Vincent Dias was fair, proper and impartial. Similarly, while answering issue No. 2, it was also held that the findings of the Enquiry Officer are based on evidence on record. Once issue Nos. 1 and 2 are answered in favour of Party II and it is held that charges are proved as against Party I workman, the action of Party II will get rid of taint of victimization. In any event, the onus of establishing a plea of victimization will be upon the person pleading it which has to be established by safe and sure evidence. Mere allegations, vague suggestions, and insinuations are not enough as proved misconduct is antithesis of victimization.

19. It is the case of Party II by way of amendment to para 10 of the claim statement that he was falsely implicated at the instigation of Shri Cyril Fernandes on allegation and charges of offence for murder, which he came to be acquitted. The said Judgment dated 3-2-2001 in Session Case No. 27/92 has been produced on record in which twelve accused including Party I workman were given benefit of doubt and acquitted under Section 143, 147, 148, 504, 506, 302 read with 149 of IPC as the prosecution had failed to prove its case beyond reasonable doubt against any of the accused. The acquittal of the said case will not help the Party I workman as it is well settled that yardstick and standard of proof in a criminal case is different from the one in disciplinary proceedings as while the standard of proof in a criminal case is proof beyond all reasonable doubts, the standard of proof in a departmental proceedings is preponderance of

probabilities as held in the case of **Employers Management West Bokaro Colliery of TISCO Ltd. vs. Concerned Workman, Ram Pravesh Singh, 2008 LLR 432**. Moreover, the issue has been dealt with by my predecessor in its order dated 25-9-2001 at Exh. 25. Be that it may, the claim of Party I that he was falsely implicated at the instigation of Shri Cyril Fernandes with active support of management is not borne out of records and therefore cannot be accepted having any merits.

20. It is also claimed by Party I that the Chairman and the Managing Director had played an active role to ensure the removal of the Party I/workman and went to the extent of advising that the false complaint be lodged against him in tragic incident of death of co-worker and the whole process of enquiry was premeditated attempt of Party II to ensure removal of Party I and install Shri Cyril Fernandes in the Union. The Party I has stated so in his affidavit-in-evidence and has produced the documents. However, it is not disclosed as who was the Chairman and the Managing Director who allegedly played an active role. He has however admitted that all the actions against him from suspension to dismissal were signed by General Manager-Production and not by the Chairman and the Managing Director of Party II. It is therefore not understood how the Chairman and the Managing Director are involved in removing him from the union. He claimed that he has been victimized because of complaints and publishing open letters of corruption against the management and for standing up for the workmen, which is conspicuous by its absence in the claim statement or amendment made thereto. In the cross examination, he admitted that one Cyril Fernandes was the President of the Union and that subsequent to his election as President of the Union, Shri Cyril Fernandes was also claiming himself to be the President of the Union on the basis of separate election.

21. The Party I has admitted that he was aware of the Writ Petition No. 260/1991 filed before Hon'ble High Court of Bombay at Panaji as he was a party to the said Petition. He claimed that the Petition was filed by the management to help Cyril Fernandes. He admitted that after the Judgment of Hon'ble High Court, Shri Cyril Fernandes took over as the President of the Union. He also admitted that the Writ Petition was filed by the company alleging that both him and Cyril Fernandes were claiming to be the real President of the union, after the elections were held by both of them separately and that the Hon'ble High Court has observed in the Judgment that about 1190 members

participated in the meeting and that the election was done by secret ballot and that 1034 members expressed confidence in said Shri Cyril Fernandes and that the majority had expressed their faith and trust in Cyril Fernandes at the meeting notified earlier and that the Hon'ble High Court directed the Registrar of Trade Union to forthwith enter the names of office bearers as having been elected at the meeting held on 28-6-1991 and that after the above judgment, Shri Cyril Fernandes became the President of the union along with his committee. There is no dispute that after the judgment was passed, Shri Cyril Fernandes took over as the President of the Union. The contention of Ld. Adv. Shri E. O. Mendes that the Chairman and the Managing Director played an active role in the removal of the workman and to install Shri Cyril Fernandes to the power in the Union, therefore cannot be accepted.

22. The Party I has produced on record the documents from Exh. 52 to 132 including the letter addressed by Shipyard Employees Union to General Manager and other several letters, however none of the documents have been produced before the enquiry officer nor the same were relied by him before the enquiry. The Party I has stated that the additional documents were produced to show that he has been victimized as he was the trade union leader and was pointing out corruption going on in Party II, however the amendments carried out by him in the claim statement do not reflect the said case of Party I or that he was being victimized for being a trade union leader, in any event the case of victimization as reflected in the claim statement by Party I workman has not been proved. The additional documents produced by Party I through application dated 18-4-2011 at Exh. 44 nowhere mention that the corruption was going on in Party II. Shri Vincent Dias has stated that there was no other reason besides the fact that the company wanted to install another union leader to victimize him. He also admitted that there is no mention of his victimization in letter dated 28-5-1991 at Exh. 59 and letter dated 29-5-1991 at Exh. 60 written by the President of the Union to the Chairman and the Managing Director. He also admitted that Party II has nothing to do with the news report published at Exh. 72 and Exh. 73 or with the criminal case No. 180/91D at Exh. 75 colly. There is no evidence to prove that the company victimized him on account of change in leadership in view of oral judgment passed in the above Writ Petition.

23. The Party I has also examined the witness, namely Santosh Tukaram Naik. He has claimed that Party I was not liked by the management for his constant embarrassment to it of issuing newsletters and press releases on corruption within high ranks and the management used to allow Cyril group to roam freely inside the Shipyard during working hours to canvas support for Cyril and his panel. He also claimed that Shri Dias led a large crowd on the road outside the administrative building when almost whole of the yard was paralyzed. He also claimed that there was a violent incident in which one Avinash Volvoikar got assaulted and thereafter succumbed to his injuries. He also stated that after referendum was held, the Hon'ble High Court disposed of the petition in favour of Shri Cyril based on the results presented to it. He in the cross examination has admitted that his services were terminated in the year 2001 and that Cyril Fernandes was the President of the Union and that the Hon'ble High Court held that Cyril is the President of the said Union. He also admitted that he does not recollect whether he has written any letter objecting to the decision of the management with regard to the allegation made by him in the affidavit. He also admitted that the Tribunal has found the enquiry conducted against Party I was fair and proper and charges against him stood proved by acceptable evidence. The above evidence therefore is contrary to the case of Party I of victimization.

24. The Party I also examined Shri Menino Estibeiro. He has stated that Shri Dias was very popular amongst the workers of GSL and used to vigorously try to protect and preserve the rights of the members of the Union and keep a strong vigil on the activities of the management who were engaged in many nefarious activities and that Shri Dias used to issue and publish more than 2000 copies of newsletters under his signature relating to corruption in the high ranks of GSL management. He also stated that in the year 1991, the Union was having its fresh general election and that Cyril and his group got the election disrupted and their group was allowed by GSL management without any restrictions. In the cross examination, he admitted that there were two groups, one led by Shri Dias and other by Shri Cyril and that there used to be clashes between the two and that the management had filed a Writ Petition before the Hon'ble High Court in connection with the dispute between the groups as both were claiming to have been lawfully elected and that the Hon'ble High Court has held that the group led by Shri Cyril was duly elected by the workers. He also admitted that

the management was not concerned with electing the President of the Union and that it is the matter to be decided by the workers. The above evidence also does not support the case of Party I.

25. The Party I has also examined Inacio C. Dias. He also stated that there have been widespread written as well as oral complaints from the workmen both individually and collectively made to the GSL management and the failure of the management to take preventive steps finally resulted in a large scale violence and death of innocent member. In the cross examination, he admitted that there were two groups of employees in the year 1991, one group led by Cyril Fernandes and other by Vincent Dias. He however feigned ignorance as to whether the Hon'ble High Court in the Writ Petition held that Shri Cyril Fernandes was duly elected and pursuant to the said Judgment, Cyril Fernandes became the President of the Union. He however denied that the Party II or its Chairman and Managing Director had not indulged in activities to victimize the Party I.

26. The Party I also examined witness No. 5, Major Babu Thomas. He has stated that from March, 1991 to January, 1997 he was employee of Party II and in the year 1992, the Party I was suspended by Party II and prior to that, he was President of the Goa Shipyard Employees Union. He also stated that there was intra-union rivalry in Party II which was disrupting the work. There was Union under the leadership of the Party I and another group under the leadership of Cyril Fernandes and that during the said period, there were complaints of indiscipline against the workers raised by both the groups against each other and no action against Cyril Fernandes was initiated as a management was supporting him as Party I had raised corruption charges against the Chairman and the Managing Director of Party II. In the cross examination, he stated that the rivalry between the two groups was already there when he joined in March 1991 and it continued till he was removed from the company in the year 1997. He also admitted that the company filed a Writ Petition for direction to the Registrar of Trade Union to record the outcome of referendum. He also admitted that he was issued a charge sheet with corruption charges and the enquiry was held against him and thereafter he was dismissed. He admitted that there was intra-union rivalry in Shipyard Employees Union and that there were two groups, one led by Vincent Dias and the other by Cyril Fernandes within the Union and both the groups held elections. He admitted that the Writ Petition No. 260/91 was filed by the management before

the Hon'ble High Court for direction to the Registrar to identify the legally elected group and it was held that the legally elected group was led by Cyril Fernandes. He also admitted that the enquiry was held against Party I and the Enquiry Officer held that charges were proved against him.

27. The evidence on record adduced by Party I in respect of issue No. 3 is clearly discrepant nor the Party I was able to show that the so called Chairman and the Managing Director of Party II had played any role in removing Party I workman or filed false complaint against him implicating in the incident of death of the co-worker to ensure installation of Cyril Fernandes in the union as President of the Union with active support of the management. The witnesses have admitted that the charges levelled against Party I have been proved. There is nothing on record that the Party I workman was victimized and was made a victim or a scapegoat and was subjected to persecution, prosecution or punishment for no real fault or guilt of his own. The Party I has failed to discharge onus of establishing the said plea of victimization brought on record by way of amendment to the claim statement. My learned predecessors has clearly held while answering issue Nos. 1 and 2 that the domestic enquiry held against the Party I workman is proper, fair and impartial and that the charges of misconduct levelled against him are proved by acceptable evidence. It is therefore once in the opinion of the Tribunal a gross misconduct is established on merits, the above plea of victimization will not carry the case of Party I workman any further, as held in the case of **M/s. Bharat Iron Works**, supra. Hence, the issue No. 3 is answered in the negative.

28. *Issue Nos. 4, 5 and 6:* There is no dispute that the charge against Party I workman was that on 4-7-1991 he along with 10 other workmen forcibly entered the office of the Manager, abused and threatened him and that he smashed the glass table top with a paper weight and hurled a desk diary towards the Manager and left the cabin by instructing the Manager not to consult his superior and thereafter, he along with 30 other workmen returned to the office of the Manager after about 20 minutes and did not accept written explanation prepared by the management and coerced him to sign a typed order nullifying the order No. 127 and also threatened, abused and assaulted the Manager for not issuing a press note and also that on 11-7-1991, the Party I workman unauthorisedly entered the yard and electronic workshop along with 25 other workmen gheraoed and manhandled one Prakash Naik and also threatened to kill him

and thereafter, on 16-7-1991, Party I workman entered the premises of the company without recording his attendance and proceeded to the yard with one workman and coerced the workman to sign the register which led to a commotion near the administrative office and that Party I workman called other workers from the Pipe Shop and Fitting Out Jetty to come armed with pipes and rods to deal with the complaining workers and that he attempted to leave the Shipyard in an ambulance in which he was not authorised to sit and the supporters of Party I forcibly pulled the barriers put by the secretary personnel and allowed the ambulance to leave which resulted in the violence and in the process one workman sustained grievous injuries resulting in his death. The above charges have been proved before the enquiry as well as before the Tribunal.

29. There is no dispute that the enquiry was held by following the principles of natural justice. The Party I has failed to prove that the action of Party II in terminating his services is illegal and unjustified, but on the contrary it has been proved that the charges against him are very serious and grave. Once the charges levelled against the Party I workman are proved to the satisfaction of the enquiry officer as well as by the Tribunal and considering the nature and gravity of charges, it cannot be said that the punishment inflicted upon Party I was wholly unreasonable, arbitrary and disproportionate to gravity of proved charges shocking conscience of Court and therefore no interference is called for in the punishment of dismissal awarded to the Party I/workman with effect from 5-10-1993. It is therefore above issues are answered accordingly.

30. In the result, I pass the following:

ORDER

- (i) The reference stands dismissed.
- (ii) It is hereby held that the action of the management of M/s. Goa Shipyard Ltd., Vaddem, Vasco-da-Gama, Goa, in dismissing Shri Pedro Vincent Dias with effect from 5-10-1993, is legal and justified.
- (iii) No order as to costs.
- (iv) Inform the Government accordingly.

Sd/-

(Vincent D'Silva),
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/3/2018-LAB/262

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 16-03-2018 in reference No. IT/43/95 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shivanee Borkar, Under Secretary (Labour) (Link).

Porvorim, 16th April, 2018.

IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT GOVERNMENT OF GOA AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/43/95

Shri Mariano L. A. Araujo,
Santa Cruz, Cabessa,
Ilhas, Goa.

... Workman/Party I

V/s

Mr. Goa Shipyard Ltd.,
Vaddem,
Vasco-da-Gama, Goa.

... Employer/Party II

Workman/Party I represented by Ld. Adv. Shri A. V. Nigalye.

Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 16th day of the month of March of the year 2018)

By Order dated 07-09-95, bearing No. 28/32/95-LAB, the Government of Goa in exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to the Tribunal for adjudication.

"Whether the action of the management of M/s Goa Shipyard Ltd., Vaddem, Vasco-da-Gama, Goa, in dismissing Shri Mariano A. L. Araujo from services with effect from 3-5-1994, is legal and justified?

If not, to what relief the workman is entitled?"

2. Upon receipt of the reference, it was registered as IT/43/95 and registered A/D notices were issued

to both the parties. Pursuant to service of notices, Party I filed a Claim statement at Exhibit 4 and Party II filed a Written statement at Exhibit 5.

3. In short, the case of the Party I is that the Party I workman was a Trade Union activist and was aligned with the President of Shipyard Employees Union, Shri P. V. Dias under whose leadership several serious allegations of corruption and security threats to the country by the management was raised and hence the management went about in a systematic way to replace the leadership. However, in the general election, the Union led by Shri Dias and his panel was retained much to the dislike of the management. Hence, the management sponsored a reign of terror within the Goa Shipyard workplace and absolute breakdown in the law and order situation inside the yard culminated into violent attack by mob led by Shri Cyril Fernandes which resulted in the tragic death of one Shri Avinash Volvoikar. The management seized the opportunity and instead of punishing the real culprit prepared a plan to take revenge against all the supporters of Shri Dias group. The management without even trying to serve the chargesheet on the workman published in the local newspapers the suspension notice to demoralize, defame and to put the workers at a psychological disadvantage.

4. The Party I workman was thereafter chargesheeted and an empty formality of an enquiry was conducted with predetermined result of dismissing the Party I workman. The workman was never furnished the complaints which form the basis of enquiry. The attitude of the Enquiry Officer was one of bias and was consistently acted as an agent of the management. The Party I workman has protested against the attitude right from the start. The Enquiry Officer did not allow the workman to lead any evidence or examine any witness in his support and did not allow to submit his arguments. The management thereafter furnished a copy of the findings and asked the workman to show cause against the proposed penalty of dismissal. The order of dismissal is bad as the findings are based on wrong appreciation of evidence. The workman is therefore entitled for setting aside the order of dismissal with reinstatement and full back wages.

5. In the Written statement, the Party II has stated that the entire reference is not maintainable as the company has held a full-fledged enquiry giving opportunity to the workman. The Party I workman has committed serious acts of misconduct and therefore decided to dismiss him from the service

of the company vide letter dated 3-5-1994. The Hon'ble High Court of Bombay at Goa in the Writ Petition filed by the company held that Mr. Cyril Fernandes and his group were duly elected office bearers of the Union. Mr. P. V. Dias had created a reign of terror along with his supporters resulting in the death of said Shri Volvoikar. The Enquiry Officer had given full opportunity to Party I workman to defend himself. The workman has not made out any case for granting any relief.

6. The Party I filed a rejoinder at Exhibit 6 denying the case put forth by Party II in the Written statement.

7. Issues framed at Exhibit 7 are as follows:

- (1) Whether the Party I proves that the domestic enquiry held against him is not fair, proper and impartial?
- (2) Whether the charges of misconduct levelled against the Party I are proved to the satisfaction of the Tribunal by acceptable evidence?
- (3) Whether the Party I proves that his dismissal from service by the Party II is by way of unfair labour practice and discrimination?
- (4) Whether the Party I proves that the action of the Party II in dismissing him from service w.e.f. 3-5-1994 is illegal and unjustified?
- (5) Whether the Party I is entitled to any relief?
- (6) What Award?

8. It is a matter of record that my Ld. Predecessor vide order dated 23-6-2005 answered preliminary issues No. 1 and 2 and held that the domestic enquiry held against the workman, Shri Mariano A. L. Araujo, is fair, proper and impartial. It is further held that only the charge of entering the yard unauthorisedly on 11th July, 1991 at about 10.35 a.m. and on 16th July, 1991 in the morning is proved which is a misconduct under Clause 29(I), 29(XII) of the Certified Standing Orders of the employer. The findings of the Inquiry Officer to the extent of holding that the charges of unauthorisedly entering the electric workshop and gheraoing Mr. Prakash Naik, coercing and forcing the workers to sign the register, provoking serious disturbances and disruption of work in the yard, causing loss of production, indulging in acts of indiscipline and calling out some workers armed with pipes, rods, etc. committing violence and assault resulting in grievous injuries to the workman, Shri Avinash Volvoikar and then resulting in his death and

refusing to accept the suspension order served on him, proved against the workman, Shri Mariano Araujo, are set aside.

9. It is thus seen that charges under Clause 29(I), 29(XII) of Certified Standing Orders of the company were proved and the other charges under Clauses 29(II), 29(XI), 29(XXIV), 29(XXXII) and 29(XXXVII) of the Certified Standing Orders remained unproved and the Party II in terms of their request in para 23 of the written statement was allowed to lead additional evidence to justify the charges which have not been proved as observed by my Ld. Predecessor in his order dated 23-6-2005. The Party II thereafter examined Shri Prakash Naik who has identified the complaint dated 11-7-1991 at page 74 of the enquiry proceedings at Exh. E-1 colly. The Party II also examined Shri Sadanand S. Sail as its witness. On the other hand, Party I examined himself and produced on record his affidavits at Exh. 23 and Exh. 24.

10. Heard arguments. Notes of Written arguments came to be placed on record by Party I as well as Party II.

11. I have gone through the records of the case and have duly considered the arguments advanced. My findings and reasons thereof are as follows:

- Issue No. 1 ... Redundant.
- Issue No. 2 ... Partly in the Affirmative.
- Issue No. 3 ... In the Negative.
- Issue No. 4 ... In the Affirmative.
- Issue No. 5 ... As per Final order.
- Issue No. 6 ... As per Final order.

REASONS

Issue No. 1:

12. It is a matter of record that my Ld. Predecessor vide order dated 23-6-2005 has held issue No. 1 'whether the domestic enquiry held against the Party I is not fair, proper and impartial' in the negative as according to it, the records of the enquiry proceedings show that the workman was given several opportunities to lead his evidence but he declined to do so insisting that he should be allowed to examine his witness first, which request was rejected by the Enquiry Officer and in such circumstances, the Enquiry Officer had no alternative but to close the evidence of the workman and the said act on the part of Enquiry Officer cannot be said to be amounting to denying the opportunity to the workman to defend himself or that there was violation of principles of natural justice on the part of Enquiry Officer in conducting the enquiry and in such circumstances, it was

observed that the workman has failed to prove that the domestic enquiry held against him was not fair and proper and therefore the issue No. 1 was answered in the negative. The Party I has not challenged the said order in respect of the said findings answering issue No. 1 in the negative. It is therefore, no more dilation on the said issue is required. Hence, issue No. 1 is answered accordingly.

Issue No. 2:

13. Ld. Adv. Shri M. S. Bandodkar for Party II has submitted that the evidence of Shri Prakash Naik has not been challenged by Party II as was done before Enquiry Officer during course of the enquiry. There was no cross examination by Party II on the aspect of threats given by Party I. He further submitted that in a domestic enquiry strict and sophisticated rules of evidence under the Indian Evidence Act may not apply and all materials which are logically probative for a prudent mind are permissible. He further submitted that in cases of dismissal of workman, that too after holding of enquiry, the Industrial Tribunal should be slow in coming to the conclusion pertaining to the interference with the punishment as imposed by the management by discarding the evidence, merely because no independent witness was produced in a misconduct pertaining to assault of superior officer. He further submitted that minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences, torn out of context here or there from the evidence attaching importance to some technical error not going to the root of the matter, would not ordinarily permit rejection of the evidence as a whole. He further submitted that merely because witnesses have not appeared in the enquiry, it will not be fatal to the outcome of the disciplinary proceedings. In support of his contention, he relied upon the cases of (i) **West Bokaro Colliery (TISCO Ltd.) vs. Ram Pravesh Singh**, 2009 LLR 449; (ii) **State of Haryana and Anr. vs. Rattan Singh**, (1977)2 SCC 491; (iii) **Workmen of Balmadies Estates vs. Management, Balmadies Estate and Ors.**, 2008 LLR 231 and (iv) **Tata Informedia Ltd. (Erstwhile Tata Press Ltd.) vs. Tata Press Employees' Union & Anr.**, 2005 LLR 730.

14. It is a matter of record that my Ld. Predecessor had considered the records of enquiry proceedings at Exh. E-1 colly more particularly the incidents on 11-7-1991 and 16-7-1991, so also the evidence of the management witnesses viz. Shri Prakash Naik and Sadanand S. Sail and found

that the management has failed to support the charge that on 11-7-1991 the workman along with other workers entered the electronic workshop and gheraoed Shri Prakash Naik removed his personal belongings and threatened to kill him, and that the management failed to prove the second charge against the workman that on 16-7-1991 he entered the company's premises at the security office and proceeded to the yard along with Vincent Dias, accosted workers and coerced them to sign on the register, incited a group to indulge in acts of indiscipline and called out some workers armed with pipes, rods, etc. which provoked serious disturbances and disruption of work in the yard and consequent loss of production and that the said act led to incident of violence and assault resulting in grievous injuries and death to a workman, Shri Avinash Volvoikar. However, it was held that the workman entered the yard unauthorisedly on 11-7-1991 at about 10.30 to 10.35 a.m. and on 16-7-1991 in the morning.

15. The Party II however have not produced any additional documents or witnesses before the Court to prove the other charges which are misconducts under Clause 29(II), 29(XI), 29(XXIV), 29 (XXXII) and 29(XXXVII) of the Certified Standing Orders. The Party II however has examined the same witnesses, namely Shri Prakash Naik and Sadanand S. Sail who had been examined before the Enquiry Officer. Ld. Adv. Shri M. S. Bandodkar has submitted that Shri Prakash Naik in his evidence has stated that when he was repairing an air conditioner in the workshop, the Party I workman along with others entered at the place where he was working and gheraoed him and Shri Araujo came and caught hold of his boiler suit and put his feet on his foot and also threatened him of dire consequences by saying 'You come outside the gate and we will kill you' and when incident took place, Mr. Diago Sequeira, John Fernandes, Chandu Desai, Suresh Dhuri, Anand Naik and other workers were present and when the incident took place for about 5-6 minutes, nobody came to his rescue. He also stated that at that time, the officers of the company namely, Oomen Mathew and one Furtado were present. He also stated that he had healthy relations with Mariano and therefore was shocked by his attitude. Ld. Adv. Shri M.S. Bandodkar has submitted that it is clear that the evidence of Prakash Naik on the aspect of assault and threat has not been challenged in the cross examination and therefore the Party II has proved the incident, which is serious in nature.

16. Per contra, Ld. Adv. Shri Nigalye has submitted and rightly so that the Party I has not produced any additional evidence or documents to show that the alleged incidents on 11-7-1991 and 16-7-1991 have been proved and that the Ld. Predecessor has not assessed the evidence in proper perspective. Shri Prakash Naik has stated in his affidavit that on 11-7-1991 at around 10.30, when he was on his way to the grinding machine, he saw a group of 25-30 workers from different departments coming towards his department and the said workers including Mariano Araujo and others entered the place where he was working and Mariano came to him, caught hold of his boiler suit, put one of his feet on his foot, removed A/C reading paper from his pocket and they threatened him of dire consequences saying that they will kill him. He also stated that other workmen, namely Shri Mr. Diago Sequeira, John Fernandes, Chandu Desai, Suresh Dhuri and Anand Naik were present, however the said persons have not been examined to prove the incident either before the Enquiry Officer or before the Court.

17. The officers of the company viz. Mr. Oomen Mathew and Furtado who were also present at the said place have also not been examined and no plausible reason has been tendered for not examining the material witnesses, who were present at the relevant time. Shri Prakash Naik in the cross examination has admitted that there is a Union by name Shipyard Employees Union and that in the year 1990 there were two rival groups in the said Union, one led by Cyril Fernandes and other by Vincent Dias and that there were physical clashes between the said two groups. He also admitted that he was the active member of the Union and that he considered Cyril Fernandes as the President of the Union and that the Union was actually led by Shri Vincent Dias, which is a rival group and the Party I was the active member of the Union led by Mr. Vincent Dias. He, however denied that he was in inimical terms with Party I since he was in rival group. Be that as it may, considering the rivalry of the Union and that the Party I belonged to the other group, the evidence of Shri Prakash Naik besides his bald statement, requires corroboration from other witnesses, including the officers, who were admittedly present on that day.

18. Importantly, Mr. Prakash Naik filed a complaint addressed to the General Manager-Production, copy of which is at page 74 of the enquiry proceedings at Exh-1 colly. The original complaint is at page 86 of the said proceedings. Mr. Prakash Naik has admitted that in his complaint dated 11-7-1991 at page 86, he had

mentioned the name of workman at Sr. No. 1 as 'Arauz', but in the complaint at page 74, the name of the workman at Sr. No. 1 was 'Arauzo Mariano'. He also admitted the name of other workman at Sr. No. 6 on page 74 of the complaint was written as 'Francis Gomes Pet Net (MRF) Pipe shop', whereas at page 86 of the complaint, the name of the workman at Sr. No. 6 is only stated as 'Pet net (MRF) pipe shop'. He however clarified that the complaint at page 86 was written by him and at that time he did not know the full name of the workman and that he had taken xerox copy of the complaint and thereafter written the full names of the workmen. He also stated that page 74 and 86 are the xerox copies of the carbon copy of the complaint taken by him. He denied the suggestion that copies of the complaint was subsequently prepared by him in order to implicate the workmen. Be that as it may, the full name of Party I is not written in the original complaint. Mr. Prakash Naik has claimed that the Party I workman was his friend. It is therefore not understood why he has not mentioned the full name of Party I in the original complaint, if at all he was involved in the incident. Nothing prevented the witness from mentioning the name of the Party I workman before giving the copy to the Manager. The Manager has also not been examined to prove that the complaint was lodged against Party I. It is therefore a serious doubt is cast on genuineness of the complaint filed by Shri Prakash Naik and it is possible that the name of the Party I/workman and other persons were added subsequently at the instance of the management or other persons to falsely implicate and therefore, it would not be proper to place reliance on the said complaint.

19. Be that as it may, there is no evidence on record except the statement of Shri Prakash Naik that the Party I workman along with other workers entered the electronic shop and gheraored Mr. Prakash Naik, removed his personal belongings and threatened to kill him. Mere production of the complaint does not mean that the charge is proved as firstly it has not been supported by his co-workers who were admittedly present at the time of incident, the officers of the management and the General Manager-Production to whom the said complaint was addressed proving the contents of the said complaint filed by Shri Prakash T. Naik, against the Party I who was admittedly in the rival group of the Union, against whom the present complaint was filed. It is also not the case of said Shri Prakash Naik that Party I in particular threatened him of dire consequences. Moreover, the Party I has denied about the said incident on

page 8 and 9 of the cross examination and that he was falsely implicated in the said case. My Ld. Predecessor based on the same evidence adduced by Party II held that the management failed to prove the first charge on 11-7-1991 regarding assault on Prakash Naik and threat to kill him and I have no other materials to come to a different conclusion. It is therefore the first charge against Party I has not been proved by Party II.

20. Importantly, it is also the case of Party II against the workman that he on 16-7-1991 in the morning entered the company's premises and proceeded to the yard along with Vincent Dias, accosted workers and coerced them to sign on the register, incited a group to indulge in acts of the indiscipline and called out some workers armed with pipes, rods, etc., which led to incident of violence and assault resulting in grievous injuries and death of Shri Avinash Volvoikar. Shri Prakash Naik in his evidence has only referred to the incident on 11-7-1991, however he has not stated anything regarding second incident which allegedly occurred on 16-7-1991. Shri Sadanand S. Sail has also not stated anything regarding the alleged incident occurred on 16-7-1991. It is therefore as rightly submitted by Ld. Adv. Shri Nigalye, the Party II has not proved the alleged incident on 11-6-1991 and 16-7-1991 against the Party I, except that he entered the yard on both the occasions without any gate pass as rightly held by my Ld. Predecessor while answering issue No. 2. The Party II have thus again failed to prove misconducts under Clauses 29(II), 29(XI), 29(XXIV), 29(XXXII) and 29(XXXVII), but proved the misconducts under Clause 29(I) and 29(XII) of the Certified Standing Orders of the Company. It is therefore, the issue No. 2 is partly answered in the affirmative.

Issue No. 3:

21. It is the case of Party I that his dismissal from the service by Party II is by way of unfair labour practice and discrimination. The Party I has claimed in claim statement that he was the victim of unfair labour practices by way of discrimination. He has also in the affidavit-in-evidence stated that he has been victimized because he belonged to the group of Vincent Dias which was resented by the management of Party II, which fact has been denied by Party II in the written statement. He has however admitted in the cross examination that he had not individually written letter to Party II stating that he has been victimized by the management. There is nothing on record that he has been made a scapegoat and was subjected to persecution,

prosecution or punishment. The onus of establishing the plea of victimization is on Party I workman, however he has not pleaded giving any particulars upon which the charge is based. The plea of victimization taken by him is vague and has not been proved by safe and sure evidence. Hence, the above issue is answered in the negative.

Issue No. 4:

22. There is no dispute that Party I was dismissed from service on the alleged misconducts levelled against him. The misconducts namely that the Party I unauthorisedly entered into the electric workshop on 11-7-1991 and 16-7-1991, under Clauses 29(I) and 29(XII) of the Certified Standing Orders of the company have been proved. The misconducts under Clauses 29(II), 29(XI), 29(XXIV), 29(XXXII) and 29(XXXVII) have not been proved thereby the allegation that the Party I gheraoed Mr. Prakash Naik, threatened him or provoked serious disturbances causing loss of production, indulging acts of indiscipline and calling out some workers armed with pipes, rods, etc. committing violence and assault resulting in grievous injuries and death of Shri Avinash Volvoikar and refusing suspension order have not been proved. It therefore reveals that the so called serious charges levelled against Party I have not been proved by Party II.

23. It is well settled that the discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment. Discernibly, the Party I awarded the punishment of dismissal considering that all the charges have been proved in the domestic enquiry, however only the minor charges of entering the yard without necessary gate pass have been proved, however it has come on record that as a practice, the committee members were entering the yard without punching the cards and that security personnels were not stopping them as per the earlier practice, which is a mitigating factor in reduction of the sentence and therefore the punishment awarded on the Party I workman was disproportionate to the gravity of misconduct proved as punishment of dismissal for merely

entering the yard on two occasions is highly disproportionate considering that the Party I workman was the office bearer of the union and that they were allowed to enter without a gate pass as a practice. It is therefore, the Party I has proved that the action of Party II in dismissing him from service w.e.f. 3-5-1994 is illegal and unjustified. Hence, issue No. 4 is answered in the affirmative.

Issue Nos. 5 & 6:

24. Ld. Adv. Shri A. Nigalye for the Party I has submitted that the powers of Tribunal under Section 11-A are very wide and if satisfied set aside the order of discharge or dismissal and direct reinstatement on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. He further submitted that the Party II has only proved minor charges of entering the Shipyard, however it has come on record that the office bearers of the Union were permitted to enter the premises. The Party I workman was in long service with Party II since his appointment for nearly over 9 years and his past record was blemishless and was having good relations with his co-workers, including Prakash Naik. The Party I has stated that he had put in long and meritorious service with Party II and was not issued any chargesheet or any other adverse communication prior to dismissal. He further submitted that the alleged minor incident cannot visit an extreme penalty of dismissal of service as awarded in the instant case who has completed 56 years of age as on date as per exhibit 35 and therefore, the Party I is entitled to reinstatement in service with back wages and in support thereof, he relied upon the cases of (i) **Rama Kant Misra vs. State of U. P. and Others, AIR 1982 SC 1552:** (ii) **Workmen of Bharat Fritz Werner (P) Ltd., vs Bharat Fritz Werner (P) Ltd. and Another, AIR 1990 SC 1054** and (iii) **E. Merck (India) Limited vs. V. N. Parulekar and others, 1991 LAB. I.C. 1555.**

25. Ld. Adv. Shri M. S. Bandodkar for Party II has submitted that the Tribunal should not interfere with the decision taken by Party II as the charges proved are very serious. He also submitted that in case of dismissal of a workman, that too after holding an enquiry, the Industrial Tribunal should be slow in coming to the conclusion pertaining to the interference with punishment as imposed by the management by substituting its own opinion. He also submitted that the discipline and congenial atmosphere is must and it should be maintained in

any institution for its growth and prosperity at any cost and undue leniency and sympathy should not be shown by interfering with the quantum of punishment imposed by the management upon the workman in the case of proved misconduct. He further submitted that unless the punishment shocks the conscience of the Court or the Tribunal, there is no scope for interference by the Court. In support of his contention, he relied upon the cases of (i) **Holy Spirit Hospital & Another vs. Benjamin Fernandes**, 2013 LLR 73; (ii) **K. Gunasekaran vs. Management of the Nilgiris District Plantation Workers Co-op. Credit Society Ltd. & Anr.**, 2014 LLR 139; (iii) **Thermax Ltd. vs. Vishwanath N. Jadhav and Others**, 2009 LLR 707 and (iv) **Jagdish Singh vs. Punjab Engineering College & Ors.**, 2009 II CLR 514.

26. Admittedly, the Tribunal's powers under Section 11-A of the Act are very wide and are not limited to the grounds on which it could interfere with the order of dismissal or discharge passed by the management under the pre-existing law. The Tribunal is under a duty to reappraise the evidence and satisfy itself as to whether the misconduct alleged against the workman was proved or not. Discernibly, the Party II has only proved that the Party I workman entered the yard unauthorisedly on 11-7-1991 and 16-7-1991 respectively, which is a misconduct under Clause 29(I) and 29(XII) of the Certified Standing Orders of the company, however the witness examined by Party II viz. Shri Sadanand S. Sail has admitted in the cross examination that as per the practice, the Union committee members were not punching their cards for entering the yard and that said practice started sometime in the year 1985 which was stopped in 1991, although he does not recollect whether there was a circular or a notice. He also admitted that the security personnels were not stopping members of committee from entering without punching their cards. There is no dispute that Party I was the member of the managing committee of the Union, which is one of the mitigating factors for reduction of the punishment awarded to Party I.

27. Needless to mention, the Party I workman was employed with the Party II for over 9 years. The alleged misconduct of entering the yard on two occasions occurred in 7-11-1991 and 16-7-1991 respectively and he was dismissed on 3-5-1994. The management has not shown that there was any blameworthy conduct in respect of service of Party I is concerned during the said period of nine and half years, he rendered prior to the alleged misconduct of entering the premises without a gate pass. There is no dispute that he was the member

of managing committee of Shipyard Employees Union and by virtue of that, he was entering the premises without punching the gate pass. Merely, entering the premises without punching the gate pass on the alleged dates of incident unconnected with any subsequent positive action and not preceded by any blameworthy conduct, cannot permit an extreme penalty of dismissal from service and therefore, the order of dismissal on the part of Party II was not justified in the facts and circumstances of the case.

28. The question therefore is what reliefs the Party I is entitled to, once it is held that the dismissal is illegal, whether the Party I is entitled for re-instatement with full back wages and continuity in service with consequential benefits attached to the post or adequate monetary compensation in lieu of reinstatement and back wages.

29. It has been consistently held by the Hon'ble Apex Court that relief by way of reinstatement with back wages is not automatic, even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. It is also well settled that the Court in appropriate cases grant compensation in lieu of reinstatement keeping in view the length of service rendered by a workman, the wages that he was receiving during that period, which would meet the ends of justice and one can safely rely upon the cases, namely (i) **State Brassware Corpn. Ltd. & Anr. vs. Uday Narain Pandey**, 2006 I CLR 39 S.C.; (ii) **Uttaranchal Forest Development Corpn. Vs. M. C. Joshi**, 2007 II CLR 84 SC; (iii) **State of M.P. & Ors. vs. Lalit Kumar Verma**, (2007) 1 SCC 575; (iv) **Madhya Pradesh Administration vs. Tribhuban**, 2007 II CLR 694 SC and (v) **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & Ors.** 2014 II CLR 813.

30. In the instant case, the Party I workman was appointed as Marine Fitter (Gen) from 1-11-1984 as seen from para 4 of the written statement and was dismissed from service by letter dated 3-5-1994 as per page 111 at Exh. E-1 colly. There is no dispute that the last drawn salary of Party I was Rs. 2,538.55 inclusive of allowances. The Party I workman therefore has worked for over nine years and that dismissal of Party I workman had taken place about 23 years ago. It is well settled position in law that reinstatement has not been considered as either desirable or expedient in certain cases where there

had been strained relations between employer and employee or where the employee was found to have been guilty of an activity subversive or prejudicial to the interest of the industry. Needless to mention, the relationship between Party I and Party II were strained on account of various incidents relating to the elections and it has been held by my Ld. Predecessor that Party I was guilty of misconduct under Clause 29(I), 29(XII) of the Certified Standing Orders of the company. It is therefore, relief of reinstatement claimed by Party I would not be justified.

31. Admittedly, the Party I workman has claimed in the affidavit in evidence dated 1-10-2009 that he was not gainfully employed from the date of dismissal from 3-5-1994 till that date and that he had made efforts to get employment but could not succeed in getting it. It is well settled in law that if the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead or prove that during the intervening period, the employee was gainfully employed and was getting the same emoluments and denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments. There is nothing on record nor is it pleaded or proved by Party II that he was gainfully employed and was getting the same emoluments. The Party I is therefore entitled for back wages but not in its entirety as part charges have been proved against him, however, considering the guiding principle for the grant of relief of back wages and the contextual facts and peculiar circumstances of the case, so also the nature of appointment, the length of service and the time taken to settle the dispute, ends of justice would be met, if the Party I is paid 75% of back wages with all consequential benefits, which would be just, proper and equitable in the facts and circumstances of the case. Hence, the above issues are answered accordingly.

32. In the result, I pass the following:

ORDER

- i. The present reference stands partly allowed.
- ii. It is hereby held that the action of the management of M/s Goa Shipyard Ltd., Vaddem, Vasco-da-Gama, Goa, in dismissing Shri Mariano A. L. Araujo from services with effect from 3-5-1994, is illegal and unjustified.

- iii. The Party II is directed to pay 75% of back wages with all consequential benefits to Party I workman from the date of dismissal till date within 60 days of the publication of the Award, failing which the Party II shall pay an interest @ 9% per annum.
- iv. Inform the Government accordingly.

Sd/-

(Vincent D'Silva),
Presiding Officer,
Industrial Tribunal and
Labour Court.

Department of Personnel

Order

No. 6/13/2017-PER/1286

Read: Order No. 6/13/2017-PER dated 13-03-2018.

Sanction of the Competent Authority is accorded for drawing salary of Shri Arvind Loliyekar, Senior Scale Officer of Goa Civil Service, awaiting posting, against the post of Leave & Training Reserve, from 16-03-2018, until further orders.

Harish N. Adconkar, Under Secretary (Personnel-I).
Porvorim, 19th April, 2018.

Order

No. 6/12/2015-PER

The following Goa Civil Service Officers are drafted for Training to be conducted by Vigilance Department through the Goa Institute of Public Administration & Rural Development (GIPARD), Ela, Old-Goa on the subject "The duties and functions of the Inquiring Officers and Presenting Officers in Disciplinary Proceedings as per batches indicated below:

The Training workshop shall be at Education Department, Porvorim and will be conducted from 9.30 a.m. to 5.30 p.m.

Batch-I		Date: 24-04-2018
Sr. No.	Officer drafted for workshop	Present posting
1	2	3
1.	Shri Menino D'Souza	Director of Tourism.
2.	Shri Narayan Sawant	Additional Secretary (Home).
3.	Shri Sanjiv M. Gadkar	Registrar of Co-operative Societies.
4.	Shri Vinesh V. Arlenkar	Director, Fisheries.

1	2	3
5.	Shri Prasad V. Lolayekar	Director of Higher Education.
6.	Shri Michael M. D'Souza	Additional Secretary to Chief Minister.
7.	Shri Prasanna Acharya	Director of Mines & Geology.
8.	Shri Dattaram G. Sardesai	Director (Admn.), Goa Medical College.
9.	Shri Arvind V. Bugde	Director of Handicrafts, Textiles & Coir.
10.	Shri Levinson J. Martins	Director of Science & Technology.
11.	Shri Sunil P. Masurkar	Additional Secretary (Health).
12.	Shri Siddhivinayak S. Naik	M.D., Goa Housing Board.
13.	Shri Gurudas P. Pilarnekar	Director of Art & Culture.
14.	Shri Vikas S. N. Gaunekar	Additional Collector-I (North).
15.	Shri Rajan K. Satardekar	M.D., GHRSSIDC.
16.	Shri Sanjeev C. Gauns Dessai	Director of Vigilance.
17.	Ms. Biju R. Naik	Joint Secretary to Governor.
18.	Shri Johnson B. Fernandes	C.O., Margao Municipal Council.
19.	Shri Umeshchandra L. Joshi	Director (Admn.), Water Resources Department.
20.	Shri Agnelo Fernandes	C.O., Mormugao Municipal Council.
21.	Shri Dashrath M. Redkar	Additional Collector-III, Bardez.
22.	Shri Ajit Pawaskar	Director (Admn.), Electricity.
23.	Shri Vinayak P. Volvoikar	Director of Provedoria.
24.	Smt. Darshana S. Narulkar	GM, DITC.
25.	Smt. Florina S. Colaco	Additional Director of Panchayats-II.

Batch-II**Date: 25-04-2018**

Sr. No.	Officer drafted for workshop	Present posting
1	2	3
1.	Shri Sanjit R. Rodrigues	M.D., Goa Solid Waste Management Corporation.
2.	Shri Amarsen W. Rane	Additional Secretary (GA).
3.	Shri Nikhil U. Dessai	Director of Transport.
4.	Shri Venancio Furtado	Director of Tribal Welfare.

1	2	3
5.	Shri Agnelo A. J. Fernandes	Additional Collector-I (South).
6.	Shri Derrick P. Netto	M.D., KTC Ltd.
7.	Shri Dipak Dessai	Director of Women & Child Development.
8.	Shri Jayant G. Tari	Secretary, Goa Rehabilitation Board.
9.	Shri V. P. Dangui	Director of Industries, Trade & Commerce.
10.	Shri Dipak M. Bandekar	Commissioner of Commercial Taxes.
11.	Shri Raju V. Gawas	Director (Admn.), Directorate of Health Services.
12.	Shri Anthony J. D'Souza	Joint Secretary (Revenue/Housing).
13.	Smt. Sandhya S. Kamat	M.D., Goa State ST Finance Corporation.
14.	Shri Damodar S. Morajkar	Additional Collector, Ponda.
15.	Shri Rajendra D. Mirajkar	Inspector General of Prisons.
16.	Smt. Sneha S. Morajkar	Director of Official Languages.
17.	Shri Ashok V. Rane	Additional CCT-II.
18.	Shri Mahesh Corjuenkar	Director of Civil Supplies & Consumer Affairs.
19.	Shri Surendra F. Naik	Additional Collector-II.
20.	Shri Ajit Panchwadkar	Director of Panchayat.
21.	Shri Narayan M. Gad	MD, GIDC.
22.	Shri Devidas S. Gaonkar	Jt. Chief Electoral Officer.
23.	Smt. Siddhi T. Halarnkar	Additional Director of Panchayats-I.
24.	Shri Senhal P. Naik Goltekar	Additional Director of Vigilance-II.
25.	Smt. Florina S. Colaco	Additional Director of Panchayats-II.
26.	Shri Ashutosh R. Apte	State Registrar and Notary Service.
27.	Shri Parag M. Nagorcenkar	Director of Environment.

Batch-III**Date: 26-04-2018**

Sr. No.	Officer drafted for workshop	Present posting
1	2	3
1.	Shri Santosh S. Kundaikar	Assistant Commissioner of Commercial Taxes.

1	2	3	1	2	3
2.	Shri Bhushan K. Savoikar	Under Secretary to C.M.	25.	Shri Kedar Ashok Naik	Dy. Registrar, Goa College of Engineering, Farmagudi.
3.	Smt. Sheru Appa Shirodkar	Dy. Director (DSLIR).	26.	Shri Prasad Gurudas Volvoikar	Dy. Registrar of Co-op. Societies.
4.	Smt. Varsha Naik	Under Secretary (GA).	27.	Shri Rohan Janardan Kaskar	Dy. Director (Admn.), Industries, Trade and Commerce.
5.	Smt. Anju S. Kerkar	Under Secretary to Minister to Urban Development.	28.	Shri Gurudas S. T. Desai	Dy. Collector (LA), North.
6.	Shri Gourish Kurtikar	Asstt. Commissioner of Commercial Taxes.	29.	Smt. Roshell Aurita Fernandes	Dy. Collector & SDO-II (South).
7.	Shri Brijesh D. Manerkar	Dy. Director (Admn. II), Tourism.	30.	Smt. Snehal Shivram Prabhu	Dy. Director, Panchayat-South.
8.	Smt. Neetal P. Amonkar	Under Secretary (Home-II).	31.	Smt. Nathine Stevea Araujo	Dy. Director (Vigilance).
9.	Shri Sagun R. Velip	Under Secretary (Revenue-II).	32.	Smt. Trupti Manerkar	Under Secretary to Minister (Health).
10.	Shri Gaurish Shankwalkar	Dy. Collector-I & SDO, Bardez.	33.	Shri Pravin Hire Parab	Dy. Director (Admn.), Goa Medical College.
11.	Shri Mahadev Araundekar	Dy. Collector & SDM, Mormugao.	34.	Shri Uday Rama Prabhu Dessai	Dy. Collector & SDO-I, Salcete.
12.	Shri Harish N. Adconkar	Under Secretary (Personnel-I).	35.	Shri Navnath K. Naik	Chief Officer, Ponda Municipal Council.
13.	Arvind B. Khutkar	Under Secretary to Art & Culture Minister.	36.	Smt. Milan Kankonkar @ Deepti Kankonkar	Dy. Director (Admn.), SDCT.
14.	Smt. Sangeeta Sakaram Rawool alias Porob	Asstt. Commissioner of Commercial Taxes.	37.	Shri Chandresh C. Kunkalkar	Asstt. Commissioner of Commercial.
15.	Shri Tushar T. Halarnakar	Dy. Director (Admn.), AH&VS.	38.	Shri Ramesh P. Naik	Joint Director, Information & Publicity.
16.	Shri Satyawalan Bhivshet	Assistant Commissioner of Excise-I.	39.	Shri Amir Yeshwant Parab	Dy. Collector (Revenue), North.
17.	Dr. Geeta Suresh Nagvenkar	Under Secretary to WRD Minister.	40.	Shri Raju Rogunath Dessai	Dy. Collector & SDO, Canacona.
18.	Shri Clen Madeira	Chief Officer, Mapusa Municipal Council.	<p>The institute shall be providing necessary stationery and meals during the training.</p> <p>The attendance for training programme is mandatory. In case of prior engagement or any other exigencies of work, prior/ex post facto approval shall be obtained for seeking exemption/ratification as the case may be.</p> <p>Further, in case any officer is deputed for election duty (Municipal Election), then such officer need not attend the scheduled training.</p> <p>By order and in the name of the Governor of Goa.</p> <p>Harish N. Adconkar, Under Secretary (Personnel-I). Porvorim, 20th April, 2018.</p>		
19.	Shri Rohit Ashok Kadam	Dy. Collector & SDM, Quepem.			
20.	Shri Akshay Gurunath Potekar	Dy. Director, Industries, Trade & Commerce.			
21.	Smt. Neha Amey Naik Panvelkar	Dy. Director of Mines-I.			
22.	Shri Deepesh Narayan Priolkar	Dy. Registrar of Co-operative Societies.			
23.	Shri Ajay Ramchandra Gaude	General Manager, GIDC.			
24.	Shri Kapil Chandrakant Phadte	Administrator of Comunidade Central Zone.			

Corrigendum

No. 7/4/2007-PER(PF-I)/1289

Read: Order No. 7/4/2007-PER(PF-I) dated 05-01-2018.

In the order referred to in the preamble, the phrase "w.e.f. 01-03-2018" referred in the first para, shall be substituted to be read as "w.e.f. 28-02-2018 (a.n.)".

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).
Porvorim, 16th April, 2018.

Department of Power

Office of the Chief Electrical Engineer

Order

No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/194

Read: 1. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2210 dated 27-10-2017.

2. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2658 dated 07-12-2017.

3. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2831 dated 20-12-2017.

Government is pleased to order with immediate effect posting of the officers promoted as Assistant Engineers (Elect.).

Sr. No.	Name of the promotee officers	Place of posting on promotion
1	2	3
1.	Shri V. D. S. Kuncolienar, Diploma	Assistant Engineer (Training), Head Office, Panaji.
2.	Shri Damodar Bicu Tari, Diploma	AE (Tech.), Division XVII, Mapusa.
3.	Shri Tilak Francisco Braganza, Diploma	Assistant Engineer (Tech.), Head Office, Panaji.

2. The above officers shall join immediately at the new place of posting within a period of seven days. Any delay on the part of the concerned officers, they shall be responsible & answerable to the Government.

3. The above promotion and posting is subject to the outcome of the Court in the Writ Petition No. 945/2017 filed before the Hon'ble High Court of Bombay at Panaji.

4. They shall continue to hold the additional charge of the post prior to their promotion.

By order and in the name of the Governor of Goa.

N. Neelakanta Reddy, Chief Electrical Engineer & ex officio Add. Secretary.

Panaji, 13th April, 2018.

Order

No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/195

Read: 1. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2209 dated 27-10-2017.

2. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2659 dated 07-12-2017.

3. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/2830 dated 20-12-2017.

4. Order No. CEE/Estt-31-25-88/GPSC/Part-III(B)/Vol-III/3544 dated 16-02-2018.

Government is pleased to order with immediate effect posting of the officers promoted as Assistant Engineers (Elect.).

Sr. No.	Name of the promotee officers	Place of posting on promotion
1	2	3
1.	Shri Joao Lucas	Assistant Engineer (Tech.), Division XIII, Kadamba Plateau.
2.	Shri Amarnath K. Fadte	Assistant Engineer, S/D-II, Division XIII, Kadamba Plateau.
3.	Shri Tulshidas G. Pal	Assistant Engineer (Tech.), Division IX, Tivim.
4.	Shri Naresh B. Gad	Assistant Engineer, S/S Cuncoim under Division XII, Xeldem.
5.	Shri Paul Francisco D'Souza	Assistant Engineer (Elect.), Division XIII, Kadamba Plateau.
6.	Shri Ganpati D. Kumbhar	Assistant Engineer (Tech.), under Division IX, Tivim.
7.	Shri Pramod G. Naik	Assistant Engineer (Com.), Division XVI, Margao.
8.	Shri Caetano P. Cardozo	Assistant Engineer (Com.), Sub-Division III, Aldona, Division VI, Mapusa.

1	2	3
9.	Shri Vikram Karekar	Assistant Engineer (Com.), S/D-III, Bambolim, Divn. I, Panaji.
10.	Smt. Rashmi Devanand Surlakar	Assistant Engineer (Tech.), Division X, Ponda.
11.	Shri Nadim Baig	Assistant Engineer (Tech.), Division I, Panaji.
12.	Smt. Dipika J. Sawaikar	Assistant Engineer (Tech.), Superintending Engineer, Circle II (N), Panaji.
13.	Shri Rosario Joaquim D'Souza	Assistant Engineer (Com.), S/D-I, Pernem, under Division XVII, Mapusa.
14.	Smt. Jacinta H. Souza Mergulhao	Assistant Engineer (LTMT), S/D-II, Panaji, Division VIII (MRT), Margao.
15.	Shri Dinesh Domnic Gomes	Assistant Engineer (Com.), S/D-II, Division X, Ponda.
16.	Shri Arvind Babal Dhavalikar	Assistant Engineer (Com.), S/D-I, Division V, Bicholim.
17.	Smt. Sangeeta Dhanu Gaunkar	Assistant Engineer (Com.), S/D-I, Division X, Ponda.
18.	Shri Anil Sawlo Goankar	Assistant Engineer (Com.), S/D-I, Division VII, Curchorem.
19.	Shri Guno Babuso Gawde	Assistant Engineer (Com.), S/D-II, Quepem, Division VII, Curchorem.
20.	Shri Ashok Devidas Tak	Assistant Engineer (Planning), Head Office, Panaji.
21.	Shri Nicholas Morais	Assistant Engineer (Elect.), Division II, Margao.
22.	Shri Keshav Gajanan Gaude	Assistant Engineer (Com.), S/D-III (R), Division X, Ponda.
23.	Shri Emlesh Chandrakant Gaonkar	Assistant Engineer (O&M), S/D-II, Sanquelim, Division V, Bicholim (additional charge of Shri Deepak Gawas stands withdrawn).
24.	Smt. Milan Neelkanth Fadte	Assistant Engineer (Tech.), Division III, Ponda.
25.	Shri Oscar Fernandes	Assistant Engineer (Tech.), Division II (S&W), Margao.
26.	Shri Adrian Justino Martins	Assistant Engineer (Com.), S/D-IV, Curtorim, Division IV, Margao.
27.	Shri Jack Barnabe Fernandes	Assistant Engineer (Energy Monitoring), Head Office, Panaji.
28.	Shri Matias Maria Mascarenhas	Assistant Engineer (Shift), S/D-II, Division XIV, Verna.
29.	Smt. Armilla Sidharth Kamat	Assistant Engineer (RT Unit), Division VIII, MRT, Margao.
30.	Shri Sanjeev G. Mhalsekar	Assistant Engineer (Tech.), Planning Section, Head Office, Panaji-Goa.
31.	Smt. Vanita Martins	Assistant Engineer, S/D-I, Division II, Margao.
32.	Shri Dovorkanath Laximikant Poi Angle	Assistant Engineer (Com.), Division XVI, Margao.
33.	Shri Manoj Vasant Mor	Assistant Engineer, Head Office under CSC.
34.	Shri Balwani Deepak D. P. Seethapathy	Assistant Engineer (Tech.), Division X, Ponda.
35.	Shri Prakash Ramesh Naik	Assistant Engineer, Division III, Ponda.
36.	Shri Omkumar Kangralkar	Assistant Engineer (Shift Duty), Division III, Ponda-Goa.
37.	Kum. Audrey J. Colaco	Assistant Engineer (Tech.), Superintending Engineer, Circle II (N), Panaji-Goa.
38.	Shri Sunil Vasu Balikar	Assistant Engineer (Tech.), Superintending Engineer, Circle I (S), Margao-Goa.
39.	Smt. Rupali Sabane	Assistant Engineer (Tech.), Division I, Panaji.
40.	Smt. Seema Sunil Parab	Assistant Engineer (Stores), S/D II, Aquem, Division II, Margao.

2. Shri Pramod G. Naik, posted in Division XVI, Margao, shall work in Sub-Division II, Chinchim under the Division on working arrangement until further orders.

3. Shri Nicholas Morais, posted in Division II (S&W), Margao, shall work in Sub-Division I, Benaulim under Division XVI, Margao on working arrangement until further orders.

4. Shri Jack Barnabe Fernandes, posted in Head Office, Panaji shall continue to work in SLDC on working arrangement until further orders.

5. Shri Dovorkanath Laximikant Poi Angle, posted in Division XVI, Margao, shall work in Sub-Division IV, Cuncolim under the Division on working arrangement until further orders.

6. The above officers shall join immediately at the new place of posting within a period of seven days. Any delay on the part of the concerned officers, they shall be responsible & answerable to the Government.

7. The above promotion and posting is subject to the outcome of the Court in the Writ Petition No. 945/2017 filed before the Hon'ble High Court of Bombay at Panaji.

8. They shall continue to hold the additional charge of the post prior to their promotion.

By order and in the name of the Governor of Goa.

N. Neelakanta Reddy, Chief Electrical Engineer & ex officio Add. Secretary.

Panaji, 13th April, 2018.



Department of Public Health

Order

No. 7/5/91-I/PHD/1036

Government is pleased to extend the term of ad hoc promotion of Smt. Medha S. Tarcar Pednekar, Chemist (Drugs) to the post of Junior Scientific Officer (Drugs) in the Directorate of Food and Drugs Administration, Bambolim in the Level-7 [pay scale of Rs. 9,300-34,800+GP: Rs. 4,600/- (pre-revised)] for the interim period with effect from 01-08-2016 to 12-12-2017.

Smt. Medha S. Tarcar Pednekar, has been promoted to the post of Junior Scientific Officer (Drugs) on regular basis w.e.f. 13-12-2017 in same pay scale vide Order No. 7/5/91-I/PHD dated 13-12-2017.

This issues with the approval of the Goa Public Service Commission vide their letter No. COM/II/ /11/56(2)/2014/1589 dated 22-03-2018.

By order and in the name of the Governor of Goa.

Smita Hede, Under Secretary (Health).

Porvorim, 17th April, 2018.

Order

No. 4/3/2008-II/PHD/1132

Dr. Teresa Maria Palmira Costa Ferreira, Assistant Professor, Department of Neurology, Goa Medical College shall hold the charge of the Head of the Department of Neurology, Goa Medical College, until further orders.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 23rd April, 2018.

Department of Revenue

Order

No. 35/17/2016-RD/792

In exercise of the powers conferred by Clause (b) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (Central Act 2 of 1899), as in force in State of Goa, the Government of Goa hereby authorises the Company as specified in column (1) of the Schedule below, to consolidate the Stamp Duty chargeable under Article 26 of Schedule I-A of the said Act on the instrument as shown in column (2) and its' value in column (3) of the Schedule below. The consolidated Stamp Duty of Rs. 5,00,000/- (Rupees five lakhs only) shall be deposited by the said Company in the State Bank of India, Treasury Branch, Panaji-Goa, within 07 days from the date of publication of this Order in Official Gazette, on a condition that incase of any increase in the Stamp Duty, the Vendor is liable to pay the balance duty, as prevailing and calculated at that time.

SCHEDULE

Name of the company	Particulars of instrument	Value of the instrument	Rate and period of interest
(1)	(2)	(3)	(4)
M/s. DIGISOL System Limited	25,00,000 Debenture Certificates (marketable securities) of ₹ 100/- each	₹ 25,00,00,000/- (Rupees Twenty Five crores)	04 years @ 0.05% per annum

By order and in the name of the Governor of Goa.

Sagun R. Velip, Under Secretary (Revenue-I).

Porvorim, 19th April, 2018.

Notification

No. 15/Rev-Appl/2007/781

In exercise of the powers conferred by Section 192 of the Goa Land Revenue Code, 1968 (Act 9 of 1969), read with Section 21 of the General Clauses Act, 1897 (Central Act 10 of 1897), and all other powers enabling it in this behalf, the Government of Goa hereby rescinds the Government Notification No. 15/Rev-Appl/2007 dated 5th August, 2008, published in the Official Gazette, Series II No. 20 dated 14th August, 2008, with immediate effect.

By order and in the name of the Governor of Goa.

Anthony J. D'Souza, Joint Secretary (Revenue).
Porvorim, 18th April, 2018.

Corrigendum

No. 22/21/2017-RD(Part-I)/788

In the Government Notification No. 22/21/2017-RD(Part-I)/545 dated 19-03-2018, published in Official Gazette, Series II No. 52 dated 29-03-2018, the word "Clause" shall be read as "section".

By order and in the name of the Governor of Goa.

Sagun R. Velip, Under Secretary (Revenue-I).
Porvorim, 19th April, 2018.

Department of Transport

Directorate of Transport

Order

No. D.Tpt/EST/285-IV/2018/2481

Shri Vinod R. Arlekar (S.C.) who was promoted to the post of Assistant Director of Transport (Group 'B' Gazetted) on ad hoc basis vide Order No. D.TPT/EST/285-III/2016/2190 dated 01-07-2016 stands REVERTED to the substantive post of Motor Vehicles Inspector (Group 'C') in the Pay Band of Rs. 9,300-34,800 & Level 6 of Pay Matrix as per the 7th Pay Commission with effect from 01-01-2018.

The expenditure on salary and allowances shall be debited to the Budget Head: 2041—Taxes on Vehicles; 00-102—Inspection of Motor Vehicles; 01—Inspection Wing; 01—Salaries.

On being reverted to the substantive post, Shri Vinod R. Arlekar is posted as Motor Vehicles Inspector at D.D.O. Code No. 118—O/o. Assistant Director of Transport, South, Margao-Goa.

Shri Balchandra A. Sawant, Assistant Director of Transport, Ponda shall hold additional charge as Assistant Director of Transport, Dharbandora.

By order and in the name of the Governor of Goa.

Nikhil Desai, Director & ex-officio Addl. Secretary (Transport).

Panaji, 13th April, 2018.

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